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| In re Application of | : | |
| Wirges et al. | : | |
| Application No.: 10/567,296 | : | |
| PCT No.: PCT/US2004/025506 | : | |
| Int. Filing Date: 06 August 2004 | : | DECISION |
| Priority Date: 06 August 2003 | : | |
| Attorney Docket No.: 8470-000086/US/NPB | : | |
| For: Interlocked Vibration Reduction Mount | : | |

This is with regard to the "Petition To Withdraw Holding Of Abandonment" filed on 21 December 2007.

BACKGROUND

This international application was filed on 06 August 2004, designated the United States, and claimed an earliest priority date of 06 August 2003. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 06 February 2006. Applicants timely filed *inter alia* the basic national fee on 06 February 2006.

On 14 June 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to counsel, requiring the submission of an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).

On 11 December 2007, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to counsel, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to timely reply to the Notification of Missing Requirements mailed on 14 June 2006.

DISCUSSION

Petitioner requests withdrawal of the holding of abandonment, on the basis of alleged non-receipt of the Notification of Missing Requirements mailed on 14 June 2006. As explained in MPEP 711.03(c), and following *Delgar v. Schuyler*, 172 USPQ 513 (D.D.C. 1971), an adequate showing of non-receipt of papers mailed to applicant by the Office must include (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket records must also be referenced in petitioner's statement).

Petitioner states that "The Notification of Missing Requirements indicated, as mailed on June 14, 2006, was not received." This statement satisfies requirement (1).

Petitioner further states that "A search of the file jacket and the docket records in my office indicates that this Notification was not received." This satisfies requirement (2).

Concerning requirement (3), petitioner provides a "Statement" signed by Christine M. Reyes, which references "a print-out from our docketing system which discloses the receipt of other correspondence mailed from the PTO on or about the mail date of the non-received Notification, but fails to disclose the receipt of the Notification mailed on June 14, 2006." Inspection of the attached documents reveals that they appear to be examples of records for certain applications (e.g., "Example 1 of Receipt of Similar Communication Received"). As examples, it is not clear that these records reflect all of the applications with responses due on or around 14 August 2006. It is noted that the fourth document appears to pertain to the instant application; however, petitioner still does not appear to have provided complete records showing all applications having responses due on or around 14 August 2006. The appropriate docket records required for relief are those records showing where the Notification would have been docketed for response. Specifically, petitioner should provide the records ("tickler sheets") showing all of the applications having responses docketed as due on or around 14 August 2006 - as opposed to examples of cases wherein the USPTO mailed correspondence on around 14 June 2006. In the absence of such records, it would not be appropriate to conclude that requirement (3) has been satisfied at this time.

The \$400.00 petition fee is not required, and it is being refunded to counsel's Deposit Account 08-0750, as authorized by the petition.

CONCLUSION

The petition is **DISMISSED**, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a).

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

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